

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF WISCONSIN

3 -----  
4 ESTATE OF MICHAEL EDWARD BELL, by  
5 Special Administrator  
6 Michael Martin Bell, KIM MARIE  
7 BELL, MICHAEL MARTIN BELL, and  
8 SHANTAE BELL,  
9

10 Plaintiffs,

11 vs.

Case No. 05-C-1176

12 OFFICER ERICH R. STRAUSBAUGH,  
13 OFFICER ERICH S. WEIDNER,  
14 LIEUTENANT DAVID H. KRUEGER,  
15 OFFICER ALBERT B. GONZALES,  
16 KENOSHA POLICE DEPARTMENT, CITY OF  
17 KENOSHA,  
18

19 Defendants.  
20 -----

21 DEPOSITION OF: FRANCIS CLARK  
22 TAKEN AT: MADRIGRANO, ZIEVERS, AIELLO, MARRY & DOWSE  
23 LOCATED AT: 1108 56th Street  
24 Kenosha, Wisconsin  
25

June 6, 2007

2:20 p.m. to 3:50 p.m.

REPORTED BY: VICKY L. ST. GEORGE, RMR.

21 -----  
22 RAY REPORTING, INC.  
23 Voice (414) 347-5599  
24 Fax (414) 347-1166  
25 Toll Free (800) 472-0445  
www.rayreporting.com  
Depos2Bdone@aol.com  
RayReporting@aol.com

1 A P P E A R A N C E S

2 CANNON & DUNPHY, S.C., by  
PATRICK O. DUNPHY  
3 595 North Barker Road  
Brookfield, Wisconsin 53045  
4 (262) 782-2700  
Appeared on behalf of the Plaintiff.

5  
GUNTA & REAK, S.C., by  
6 GREGG GUNTA  
KEVIN P. REAK  
7 219 North Milwaukee Street  
Milwaukee, Wisconsin 53202  
8 (414) 291-7979  
Appeared on behalf of the Defendants.

9  
ALSO PRESENT:  
10 CAPTAIN RANDY BERNER, Kenosha Police Department.

11  
12  
13

I N D E X

14	DEPOSITION	PAGE
15	FRANCIS CLARK	
16	EXAMINATION BY MR. DUNPHY	4
17	EXAMINATION BY MR. REAK	35

18  
19  
20

21 E X H I B I T S

22	NUMBER	DESCRIPTION	PAGE
23	96	Statement of Francis Clark	8
24	97	Statement of Francis Clark	9
25	98	Photo of Duplex	9

			3
1	99	Photo of Porch	9
2	100	Photograph	16
3	101	Photograph	34
4	102	Photograph	34
5	103	Handwritten Notes	55
6	104	Statement of Charlene Nejedly	60
7			
8			
9			
10		R E Q U E S T S	
11		(No requests made.)	
12			
13			
14			
15			
16			
17			
18		(Original exhibits attached to original transcript.)	
19			
20		(Original transcript was delivered to Attorney Dunphy.)	
21			
22			
23			
24			
25			

1 Q. If you, again, look at Exhibit 100 there are two  
2 wheels that you can see both obviously on the  
3 driver's side of the vehicle. Can you tell me where  
4 Michael was in relationship to either one of these  
5 wheels at the time that you saw the officers shove  
6 him over the car?

7 A. Yes. He was directly over the front driver's side  
8 wheel.

9 Q. Would you please put an MB, initials for Michael  
10 Bell, in the best approximate location you can for  
11 where Michael Bell's feet would have been when you  
12 saw him over the hood of the car?

13 (Witness complies.)

14 Q. Okay.

15 MR. GUNTA: Pat, can you hold that up so I  
16 can see where he put his initials? Thank you.

17 BY MR. DUNPHY:

18 Q. It's a little hard to see just because of the color  
19 of the photographs. It looks as if you put the MB on  
20 top of what we now know to be a blue hoody or a blue  
21 shirt.

22 A. Yes.

23 Q. When the two officers had Michael over the hood of  
24 the car, can you tell us what the officer on  
25 Michael's right side was doing?

- 1 A. Yes, he appeared to be trying to get control of  
2 Michael's right arm.
- 3 Q. And what did you see the officer do to Michael's  
4 right arm?
- 5 A. It looked as though he was putting, trying to get a  
6 handcuff on his right arm.
- 7 Q. Were you able to see Michael's right arm?
- 8 A. At one point, yes, it was pulled back behind him.
- 9 Q. And at what point in relationship to when Michael was  
10 first put over the hood of the car did you see the  
11 officer pull Michael's right arm behind him?
- 12 A. Can you repeat that?
- 13 Q. Yeah. Want to make sure, first of all, this is  
14 Michael's right arm that you saw?
- 15 A. Michael's right arm.
- 16 Q. And according to the statement you gave to the police  
17 on November 11th you saw Michael's right arm pulled  
18 behind Michael; is that correct?
- 19 A. Yes.
- 20 Q. Was this before or after you saw the officers put  
21 Michael over the hood of the car?
- 22 A. It was after.
- 23 Q. Did you see the officer attempt to do anything else  
24 to Michael's right arm after he had it pulled behind  
25 Michael?

1 Q. Where -- were you still at the window?

2 A. Yes.

3 Q. And would you tell us what you saw when the officer  
4 came through the backyard?

5 A. I saw him come from the south side of the house. In  
6 fact, in No. 99 here, that's my barbecue grill  
7 sitting back here. I seen him --

8 Q. Maybe you can circle that. You don't have to initial  
9 it though.

10 (Witness complies.)

11 A. I saw him come up this driveway and just around my  
12 barbecue grill. I could see him coming around the  
13 corner of the house.

14 Q. Can you give us any description, any identifying  
15 characteristics of any kind regarding this third  
16 officer?

17 A. He was a shorter guy, dark hair and appeared, you  
18 know, it's well lit, at the time I thought he looked  
19 kind of Hispanic or Italian looking.

20 Q. So dark complected?

21 A. Yeah, yeah.

22 Q. Where did the officer run from when you first saw  
23 him? Where did he run from and to?

24 A. He ran from the south driveway. And when he come  
25 around the corner, I could see that he was drawing

1 his weapon, and he ran to where they had Michael over  
2 the hood of the car.

3 Q. How do you know it was a weapon?

4 A. I know what guns look like. I've shot plenty of  
5 them. I used to shoot with my father a lot growing  
6 up.

7 Q. And when the officer ran to where Michael and the  
8 other officers were, describe what you saw him do?

9 A. I saw him run in between the two officers. And it  
10 was a matter of I don't know, maybe a second or two,  
11 it wasn't much is when I heard a pop.

12 Q. What happened after the pop?

13 A. In a couple of seconds the officers stood back and I  
14 just, they just kind of stepped back and Michael was  
15 laying over the hood of the car.

16 Q. What were you able to see about Michael?

17 A. Just that he was laying motionless over the hood of  
18 the car.

19 Q. What did you see after that?

20 A. Wasn't much longer, 30, 40 seconds Michael kind of  
21 slid off the hood of the car and laid down by the  
22 tire.

23 Q. In a statement that you gave to Detective Ollila on  
24 November 11th, 2004 -- Strike that. When you gave  
25 the statement to Detective Ollila, I assume that you